



NYC Parks

DATE:

LICENSEE’S NAME:

ADDRESS:

CONTACT:

TELEPHONE:

E-MAIL:

EXHIBITION LICENSE AGREEMENT

This exhibition license agreement (“License Agreement” or “License” or “Agreement”) made this _____ day of _____, 20____ between the City of New York (“City”) acting by and through the New York City Department of Parks & Recreation (“NYC Parks”) and xxx (“Licensee”) permitting Licensee to exhibit a temporary art installation entitled “xxxx” (the “Artwork”) in location(s) on property under NYC Parks’ jurisdiction pursuant to the terms and conditions of this Agreement.

1. SITE

The xx (3) Artwork installation(s) by [Artist name] shall be exhibited in xx Park, [Boro] (Prop# xxxx); at the site(s) set out on the map attached in EXHIBIT A (“Sites”).

2. ARTWORK

Renderings of the Artwork are shown on EXHIBIT B and correspond to the placement at the Site(s). The dimensions and weight of the Artwork and the installation methods are described on EXHIBIT C.

3. TERM

3.1 Licensee may enter upon the Sites on [day of week], [date] through [day of week], [date] to commence the necessary preparation of the site and installation of the Artwork. The Artwork shall be exhibited to the public on or about [day to date]. Licensee shall dismantle and remove the Artwork and restore the Sites no later than [day of week], [date] at [time].

3.2 Time shall be of the essence in this Agreement. The times indicated for the set-up and take-down activities shall not be extended, except if NYC Parks’ Commissioner (the



“Commissioner”) has determined that delays to Licensee’s activities were due to Force Majeure or any delay by NYC Parks or any City, State, or Federal permitting authority not attributable to Licensee. In those situations, Licensee shall propose for the Commissioner’s approval, a revised set-up and/or take-down completion schedule and if approved, Licensee shall complete the activities under an approved revised schedule.

4. NO LEASE

4.1 It is expressly understood that no land or space is leased to Licensee. Licensee shall have the use of the Site(s) for the purposes stated, subject to the terms and conditions in this Agreement.

4.2 Licensee understands and agrees that its exhibit shall not substantially impede the public’s use of parkland or the use or functionality of the maintenance and operations activities thereon. Licensee may not sell nor offer for sale any item or service at the Sites, or use the Sites for purposes inconsistent with parkland.

4.3 Licensee shall at all times, provide free access to the Licensed Premises to the Commissioner or Commissioner’s representatives and to other City, State, and Federal officials having jurisdiction, for inspection and any other lawful purposes. The Commissioner, Commissioner’s representatives and such other officials shall have the right to enter and be present at the Premises to observe Licensee’s operations.

5. SITE PREPARATIONS

Licensee agrees to undertake all necessary work to prepare the Sites for exhibition.

6. INSTALLATION AND REMOVAL

6.1 Licensee shall be solely responsible for the Artwork’s installation and removal; and shall provide, at its sole cost and expense, all labor, services, and supervision necessary. To minimize interference with NYC Parks’ operations, Licensee shall use its best efforts to ensure that all installation and removal work, including but not limited to any use of heavy equipment, will be used to the minimum extent necessary, and in a manner which is not disruptive to the public’s use of parkland. Licensee shall make every reasonable effort to close as little parkland as possible for as short a period of time as possible, and public access shall be a priority during the Term.

6.2 If required by the Commissioner, Licensee shall provide an experienced production manager during all installation and removal work. NYC Parks must approve in advance all logistical



plans, including but not limited to tenting, placing of heavy equipment, driving of machinery and placing of barricades, generators, tables, cables, etc.

6.3 The Artwork will be mounted at each site as described in **EXHIBIT C**.

6.4 When removing the Artwork, Licensee shall remove all foreign material from the Sites and restore the individual sites, ensuring that the installation areas are restored to NYC Parks' satisfaction:

- i) level with the surrounding area;
- ii) clear of all materials from the exhibit;
- iii) restored to their original condition; and that the
- iv) pavement is restored to its original condition.

6.5 Licensee shall ensure that none of the Artwork interferes with the growth or natural state of surrounding trees, their limbs or root systems. Licensee shall be responsible for the cost of replacing any tree(s) or other NYC Parks or City property damaged by its operations under this Agreement.

6.6 Licensee shall make a good faith effort to minimize the damage to the grass, pavement, underground utilities and other parkland and park structures resulting from the installation, display or maintenance of the Artwork. If any such damage should result to the parkland and/or park structures, Licensee shall promptly notify NYC Parks' Art & Antiquities Division ("Art & Antiquities"). It shall be Licensee's responsibility at his or her sole cost and expense to repair, replace and restore any damage to the parkland and/or park structures to NYC Parks' satisfaction. Licensee shall provide NYC Parks with a maintenance and security deposit in the form of a certified or bank check in the amount of \$xxxx before the Term of this Agreement. This security deposit will be used as security for any damage caused by Licensee or its agents in connection with this Agreement. Additionally, if the Artwork is not removed on or before the date specified in Section 3 of this Agreement, NYC Parks may remove the Artwork at Licensee's expense, with NYC Parks bearing no responsibility for any damage done to the Artwork during this removal process. Licensee hereby waives any protection under applicable Federal or State law afforded to the Artist, the Licensee, or the Artwork, that would prevent such removal at the expiration or upon termination of this License, including but not limited to the Visual Artists Rights Act (VARA) of 1990 (17 U.S.C. § 106A), 17 U.S.C. §§ 101 et seq. and Article 14 of the New York State Arts and Cultural Affairs Law.



6.7 NYC Parks' removal and storage costs, if any, may be charged against the Licensee's security deposit. Licensee must promptly pay any expenses incurred by NYC Parks upon receipt of itemized expenses. The parties understand that the failure to submit the required security deposit shall be deemed a material breach of this Agreement and shall be grounds for immediate termination of this Agreement and termination of the display of Artwork in the Commissioner's sole discretion. If Licensee fulfills his/her installation, maintenance and removal obligations as provided in this License, and if no restoration work is necessary after the removal of the Artwork, then NYC Parks shall return the security deposit to Licensee without making any claims against it. NYC Parks shall not be required to pay interest on this security deposit.

6.8 Only those vehicles necessary for the transportation and installation and removal of the Artwork shall be permitted to enter the Sites, and their access shall be limited to and include [installation date to installation date] and [deinstallation date to deinstallation date] (during the hours designated by the Department of Transportation (DOT), when applicable). Should vehicles be brought onto parkland, **the attached regulations** concerning vehicle operations on park areas, paths, and closed park roads shall apply.

6.9 Before installing or removing the Artwork, Licensee shall contact **Elizabeth Masella, Senior Public Art Coordinator, at (212) 360-8114 or by e-mail: Elizabeth.Masella@parks.nyc.gov** and must also coordinate with the **xx Office with xx at (000) 000-0000** not less than forty-eight (48) hours in advance to inform the office that the work is to begin and to determine the specific entry and exit routes to be followed at the Sites.

7. MAINTENANCE

The Licensee shall periodically inspect the Artwork for any damage, graffiti, structural integrity, wear and tear or other conditions. Licensee shall assume the responsibility of remedying any particular condition for the duration of the installation. Licensee at its sole cost and expense must repair or clean the Artwork in a timely manner if it is vandalized. If the Artwork is damaged to the extent it becomes aesthetically compromised and/or cannot be repaired or cleaned to the Commissioner's satisfaction, Licensee shall remove the Artwork from the Sites. Licensee shall ensure that the Sites and Artwork remain safe and secure throughout the Term of the exhibition. Should a problem develop with public safety, or with members of the public climbing the Artwork, NYC Parks and Licensee agree to work together to improve public safety, including requiring an on-



Site security presence. However, if the Commissioner in his sole discretion determines that there is a public safety risk should the Artwork remain at the Sites, the Commissioner shall direct Licensee to remove the Artwork from the Sites and Licensee will promptly remove the Artwork from the Sites as directed.

8. Reserved.

9. CHANGES

No change, revision, alteration or extension of the exhibition proposed by Licensee will be made until after written approval is received from the Commissioner.

10. TERMINATION

This License is terminable at will at any time by the Commissioner upon one day written notice to Licensee if the Commissioner determines that terminating this Agreement is in the City's best interest, except that on the day(s) of the Event, the Commissioner may terminate the Agreement in the City's best interests without advance notice. Upon the expiration or termination of this Agreement, Licensee shall promptly remove the Artwork and restore the Site as directed by NYC Parks. The Commissioner retains the right to terminate the Agreement at any time if the Commissioner deems said termination to be in the City's best interests. Licensee expressly waives any and all claims against NYC Parks arising from the termination of this Agreement as provided for in this Agreement.

11. INSURANCE

11.1 Licensee's Obligation to Insure

(a) Upon commencement of operations, through the date of expiration or termination of this Agreement, the Licensee shall ensure that the types of insurance indicated in this Section are obtained and remain in force, and that such insurance adheres to all requirements herein.

(b) The Licensee is authorized to undertake or maintain operations under this License only during the effective period of all required coverage.

11.2 Commercial General Liability Insurance

(a) The Licensee shall maintain Commercial General Liability insurance in the



amount of at least One Million Dollars (\$1,000,000) per occurrence for bodily injury (including death) and property damage, and One Million Dollars (\$1,000,000) per occurrence for personal and advertising injury with no aggregate limit. In the event such insurance contains an aggregate limit, the aggregate shall apply on a per-location basis applicable to the Premises and such per-location aggregate shall be at least Two Million Dollars (\$2,000,000). This insurance shall protect the insureds from claims for property damage and/or bodily injury, including death that may arise from any of the operations under this License. Coverage shall be at least as broad as that provided by the most recently issued Insurance Services Office (“ISO”) Form CG 00 01, shall contain no exclusions other than as required by law or as approved by the Commissioner, and shall be "occurrence" based rather than "claims-made”.

(b) Such Commercial General Liability insurance shall **name the City, together with its officials and employees, as an Additional Insured for claims that may arise from any of the operations under this License.** Coverage shall be at least as broad as the most recent edition of ISO Form CG 20 26. “Blanket” or other forms are also acceptable if they provide the City, together with its officials and employees, with coverage at least as broad as ISO Form CG 20 26.

11.3 Reserved.

11.4 Reserved.

11.5 Workers’ Compensation, Employers Liability and Disability Benefits Insurance

To the extent required by law, and/or if the Licensee has retained employees for the installation of this Artwork, then the Licensee shall maintain Workers’ Compensation insurance, Employers Liability insurance, and Disability Benefits insurance on behalf of, or with regard to, all employees involved in the Licensee’s operations under this License, and such insurance shall comply with the laws of the State of New York.

11.6 Commercial Automobile Liability Insurance

If required by the Commissioner and, or if a vehicle(s) is brought on the Site in connection with this License with regard to all operations under this License, then the Licensee shall maintain or cause to be maintained Commercial Automobile Liability insurance in the amount of at least **Two** Million Dollars (**\$2**,000,000) each accident (combined single limit) for liability arising out of the ownership, maintenance or use of any owned, non-owned or hired vehicles. Coverage shall be at least as broad as the latest edition of ISO Form CA0001. If vehicles are used for transporting



hazardous materials, such Commercial Automobile Liability insurance shall be endorsed to provide pollution liability broadened coverage for covered vehicles (endorsement CA 99 48) as well as proof of MCS-90.

11.7 General Requirements for Insurance Coverage and Policies

(a) Policies of insurance required under this Section shall be provided by companies that may lawfully issue such policy and have an A.M. Best rating of at least A/“VII” or a Standard and Poor’s rating of at least A, unless prior written approval is obtained from the Law Department.

(b) Policies of insurance required under this Section shall be primary and non-contributing to any insurance or self-insurance maintained by the City.

(c) Wherever this Section requires that insurance coverage be “at least as broad” as a specified form (including all ISO forms), there is no obligation that the form itself be used, provided that the Licensee can demonstrate that the alternative form or endorsement contained in its policy provides coverage at least as broad as the specified form.

(d) There shall be no self-insurance program or self-insured retention with regard to any insurance required under this Section unless approved in writing by the Commissioner. Under no circumstances shall the City be responsible for the payment of any self-insured retention (or any other aspect of a self-insurance program). Further, the Licensee shall ensure that any such self-insurance program provides the City with all rights that would be provided by traditional insurance under this Section, including but not limited the defense and indemnification obligations that insurers are required to undertake in liability policies.

(e) The City’s limits of coverage for all types of insurance required under this Section shall be the greater of (i) the minimum limits set forth in this Section or (ii) the limits provided to the Licensee under all primary, excess and umbrella policies covering operations under this License.

(f) All required policies, except for Workers’ Compensation insurance, Employers Liability insurance, and Disability Benefits insurance shall contain an endorsement requiring that the issuing insurance company endeavor to provide the City with advance written notice in the event such policy is to expire or be cancelled or terminated for any reason, and to mail such notice to both the **Commissioner, New York City Department of Parks & Recreation, 830**



Fifth Avenue, New York, NY 10065, and the New York City Comptroller, Attn: Office of Contract Administration, Municipal Building, One Centre Street, Room 1005, New York, NY 10007. Such notice is to be sent at least (30) days before the expiration, cancellation or termination date, except in cases of non-payment, where at least ten (10) days written notice would be provided.

(g) All required policies, except Workers' Compensation, Employers Liability and Disability Benefits insurance shall include a waiver of the right of subrogation with respect to all insureds and loss payees named therein.

11.8 Proof of Insurance

(a) Certificates of Insurance ("COI") for all insurance required in this Section 10 must be submitted to and accepted by the Commissioner before or upon execution of this License.

(b) For Workers Compensation, Employers Liability Insurance, and Disability Benefits insurance policies, the Licensee shall submit one of the following: C-105.2 Certificate of Worker's Compensation Insurance; U-26.3 - State Insurance Fund Certificate of Workers' Compensation Insurance; Request for WC/DB Exemption (Form CE-200); equivalent or successor forms used by the New York State Workers' Compensation Board; or other proof of insurance in a form acceptable to the City. ACORD forms are not acceptable proof of Workers' Compensation coverage.

(c) For all insurance required under this Section, other than Workers Compensation, Employers Liability and Disability Benefits insurance, the Licensee shall submit one or more COI in a form acceptable to the Commissioner. All COI shall (a) certify the issuance and effectiveness of such policies of insurance, each with the specified minimum limits; and (b) be accompanied by the provision(s) or endorsement(s) in the Licensee's policy/ies (including its general liability policy) by which the City has been made an additional insured or loss payee, as required herein. All COI shall be accompanied by either a duly executed "**Certification by Insurance Broker or Agent**" in the form attached in **Exhibit D**, or as otherwise required by the Commissioner or certified copies of all policies referenced in such COI. COI confirming renewals of insurance shall be submitted to the Commissioner before the expiration date of coverage of all policies required under this Agreement. The COI shall comply with subsections (b) and (c) directly above.

(d) The Commissioner's acceptance or approval by of a COI or any other matter does not waive Licensee's obligation to ensure that insurance fully consistent with the requirements



of this Section is secured and maintained, nor does it waive Licensee's liability for its failure to do so.

(e) The Licensee shall be obligated to provide the City with a copy of any policy of insurance required under this Section upon request by the Commissioner or the New York City Law Department.

11.9 Miscellaneous

(a) The Licensee may satisfy its insurance obligations under this Section through primary policies or a combination of primary and excess/umbrella policies, so long as all policies provide the scope of coverage required herein.

(b) If the Licensee requires any contractor to procure insurance with regard to any operations under this License and to name the Licensee as an Additional Insured thereunder, the Licensee shall ensure that such contractor also name the City, including its officials and employees, as an Additional Insured with coverage at least as broad as the most recent edition of ISO Form CG 2026.

(c) The Licensee shall be solely responsible for the payment of all premiums for all policies and all deductibles to which they are subject, whether or not the City is an insured under the policy.

(d) Where notice of loss, damage, occurrence, accident, claim or suit is required under a policy maintained in accordance with this Section, the Licensee shall notify in writing all insurance carriers that issued potentially responsive policies of any such event relating to any operations under this License (including notice to Commercial General Liability insurance carriers for events relating to the Licensee's own employees) no later than 20 days after such event. For any policy where the City is an Additional Insured, such notice shall expressly specify, "this notice is being given on behalf of the City of New York as Insured as well as the Named Insured". Such notice shall also contain the following information: the number of the insurance policy, the name of the named insured, the date and location of the damage, occurrence or accident, and the identity of the persons or things injured, damaged or lost. The Licensee shall simultaneously send a copy of such notice to:

**The City of New York Law Department
c/o Insurance Claims Specialist-Affirmative Litigation Division
100 Church Street**



New York, NY 10007

(e) The Licensee's failure to secure and maintain insurance in complete conformity with this Section, or to give the insurance carrier timely notice on the City's behalf, or to do anything else required by this Section shall constitute a material breach of this License. Such breach shall not be waived or otherwise excused by any action or inaction by the City at any time.

(f) Insurance coverage in the minimum amounts provided for in this Section shall not relieve the Licensee of any liability under this License, nor shall it preclude the City from exercising any rights or taking such other actions as are available to it under any other provisions of this License or the law.

(g) In the event of any loss, accident, claim, action, or other event that does or can give rise to a claim under any insurance policy required under this Section, the Licensee shall at all times fully cooperate with the City with regard to such potential or actual claim.

(h) Apart from damages or losses covered by Workers' Compensation, Employers Liability, and Disability Benefits Insurances, the Licensee waives all rights against the City, including its officials and employees, for any damages or losses that are covered under any insurance required under this Section (whether or not such insurance is actually procured or claims are paid thereunder) or any other insurance applicable to the operations of the Licensee and/or its employees, agents, or servants of its contractors or subcontractors.

(i) [Intentionally Omitted].

(j) In the event the Licensee requires any entity, by contract or otherwise, to procure insurance with regard to any operations under this License and requires any other entity to name the Licensee as an additional insured under such insurance, the Licensee shall ensure that such entity also name the City, including its officials and employees, as an additional insured with coverage for Commercial General Liability Insurance at least as broad as ISO form CG 2026.

(k) If the Licensee receives notice, from an insurance company or other person, that any insurance policy required under this Section shall expire or be cancelled or terminated (or has expired or been cancelled or terminated) for any reason, the Licensee shall immediately forward a copy of such notice to both the **Commissioner, New York City Department of Parks & Recreation, 830 Fifth Avenue, New York, NY 10065**, and the **New York City Comptroller, attn: Office of Contract Administration, Municipal Building, One Centre Street, Room 1005, New**



York, NY 10007. However, Licensee shall ensure that there is no interruption in any of the insurance coverage required under this Section.

12. RESPONSIBILITY FOR SAFETY, INJURIES OR DAMAGE, AND INDEMNIFICATION

12.1 (a) Licensee hereby represents that **(i)** Licensee has the right, authority and capacity to enter into this Agreement and perform all of our obligations hereunder, and this Agreement constitutes a valid and binding agreement; **(ii)** Licensee is the sole owner of all of the rights granted hereunder and such rights will not violate the rights of any third party; **(iii)** under this Agreement Licensee shall not do anything that would limit, diminish, or impair the rights of any third party; and **(iv)** the execution, delivery and performance of this Agreement shall not violate the provisions of any agreement to which Licensee is a party or by which Licensee is bound. Licensee further represents that the Artwork consists of original material and does not violate or infringe the rights of any third party. To the extent that the Artwork incorporates any non-original material, the Licensee has secured any and all necessary clearances or permissions necessary for the installation and display of the Artwork.

(b) Licensee represents that the Site has been seen and inspected and is accepted in its "as is" condition. Licensee hereby discharges and releases NYC Parks from any and all claims arising from the condition of the Site.

(c) Licensee assumes all risk of loss or damage to the Artwork in connection with its transportation, installation, exhibition, maintenance, security and removal from the Site. The issuance of this Agreement imposes no obligations or duties on NYC Parks except those expressly provided in this Agreement.

12.2 Licensee's Responsibility

(a) The Licensee shall be solely responsible for the safety and protection of its employees, agents, servants, contractors and subcontractors, and for the safety and protection of the employees, agents or servants of its contractors or subcontractors.

(b) The Licensee shall be solely responsible for taking all reasonable precautions to protect the persons and property of the City or others from damage, loss or injury resulting from any and all operations under this License.

(c) The Licensee shall be solely responsible for injuries to any and all persons,



including death, and damage to any and all property arising out of or related to the operations under this License, whether or not due to the negligence of the Licensee, including but not limited to injuries or damages resulting from the acts or omissions of any of its employees, agents, servants, contractors, subcontractors, or any other person.

(d) The Licensee shall use the Site in compliance with, and shall not cause or permit the Site to be used in violation of, any and all Federal, State or local environmental, health and/or safety-related laws, regulations, standards, decisions of the courts, permits or permit conditions, currently existing or as amended or adapted in the future which are or become applicable to the Licensee or the Premises (collectively “Environmental Laws”). Except as may be agreed by the City as part of this License, Licensee shall not cause or permit, or allow any of the Licensee’s personnel to cause or permit, any Hazardous Materials to be brought upon, store, used generated, treated or disposed of on the Premises. As used herein, “Hazardous Materials” means any chemical, substance or material, which is now or becomes in the future listed, defined or regulated in any manner by any Environmental Law based upon, directly or indirectly, its properties or effects.

12.3 Indemnification and Related Obligations

(a) To the fullest extent permitted by law, the Licensee shall defend, indemnify and hold the City and its officials and employees harmless from any and all claims (even if the allegations of the lawsuit are without merit) or judgments for damages and from costs and expenses to which the City may be subject to or which it may suffer or incur allegedly arising out of or in connection with any infringement by the Licensee of any copyright, trade secrets, trademark or patent rights or any other property or personal right of any third party by the Licensee and/or its subcontractors in the performance of this Agreement. The Licensee shall defend, indemnify and hold the City and its officials and employees harmless regardless of whether or not the alleged infringement arises out of compliance with the Agreement’s scope of services/scope of work. Insofar as the facts or Law relating to any claim would preclude the City or its officials and employees from being completely indemnified by the Licensee, the City shall be partially indemnified by the Licensee to the fullest extent permitted by Law.

(b) To the extent that the Copyrightable Materials incorporate any non-original material, the Artist shall obtain all necessary permissions and clearances, in writing, for the use of such non-original material under this Agreement, copies of which shall be provided to the



City upon execution of this Agreement.

(c) The Licensee's obligation to defend, indemnify and hold the City and its officers and employees harmless shall not be (i) limited in any way by the Licensee's obligations to obtain and maintain insurance under this License, nor (ii) adversely affected by any failure on the part of the City or its officers and employees to avail themselves of the benefits of such insurance.

13. WAIVER OF CLAIMS

Licensee hereby waives any and all claims for damages or compensation against the City, Parks, or officers or employees thereof, for any or all loss or damage or other injury to the Artwork during its exhibition, including its transportation to or from the Site and installation at or removal from the Site.

14. BREACH

In the event either party breaches any provision of this Agreement or at any time fails or refuses to fulfill any obligation required under this Agreement and fails to remedy the breach within two (2) days after receipt of written notice specifying such default, then, in addition to all other remedies available at law or equity, the non-defaulting party may, by written notice to the defaulting party, terminate this Agreement forthwith. Furthermore, the Commissioner shall retain the right to terminate the Agreement at any time if he deems said termination to be in the City's best interests.

15. INDEPENDENT CONTRACTORS, NO ASSIGNMENT

The parties to this Agreement shall be independent contractors, and nothing herein shall be deemed to make us joint venturers, partners, agent or principal, or otherwise. This Agreement shall not be assignable without the other party's prior written consent.

16. COMPLIANCE WITH LAWS

16.1 Licensee agrees to comply with all of NYC Parks' rules and regulations, and all Federal, State, and City laws, ordinances and orders now in effect or thereafter promulgated.

16.2 Licensee shall not unlawfully discriminate against any employee, applicant for employment or anyone desiring to view the Artwork, or participate in any associated activities or events because of actual or perceived age, race, creed, religion, sex, gender, color, disability, sexual preference or orientation, national origin, alienage, citizenship status, partnership status, marital status, military status, presence of a service animal or any other class of individuals protected from



discrimination in public accommodations by City, State or Federal laws, rules or regulations.

16.3 Licensee shall comply with the Americans with Disabilities Act (“ADA”), and regulations pertaining thereto as applicable. Any violation of this Section shall be a material breach of this Agreement subject to termination.

17. NUISANCE AND WASTE

Licensee shall not create or allow to be created any nuisance or danger to the public safety, in or about the site, and shall not commit or cause any waste, damage, disfigurement or injury to the site.

18. PROMOTION

18.1 NYC Parks hereby grants Licensee the right to publicize the Artwork. To assure public awareness of Artwork, Licensee shall make good faith efforts to provide notice to the public about the opportunity to view the Artwork. NYC Parks shall approve all such publications, including but not limited to any posters, flyers, print advertisements, and invitations prior to publication and/or dissemination. NYC Parks must also approve all radio and television advertisements developed to publicize the Artwork prior to airing. NYC Parks shall respond within a reasonable time to any approval request by Licensee with regard to submitted press releases and all other publications related to the Artwork. All press releases and publications shall conspicuously acknowledge NYC Parks and prominently feature NYC Parks’ name and logo.

18.2 NYC Parks grants Licensee the right to use its name and/or logo on promotional materials relating to the Artwork, including any invitational mailing produced and distributed by Licensee to publicize the Artwork. The size, appearance and placement of the aforementioned name/logo shall be subject to NYC Parks’ prior written approval.

18.3 If in the Commissioner’s discretion any release, advertisement or statements made to the public relating to the Artwork are incorrect or unacceptable for any reason, Licensee agrees to alter or cease such release, advertisement or statement as directed by the Commissioner.

18.4 All signs, advertisements, literature and other publicity materials relating to the exhibition pursuant to this Agreement shall be submitted to Art & Antiquities and NYC Parks’ Press Office to be included in their files.

18.5 Licensee hereby grants NYC Parks the right to use and reproduce in any media now known or hereafter devised images of the Artwork on or in a City or NYC Parks’ Internet website,



tourist brochures, press release, advertising or promotion solely for the noncommercial purposes of archival records, announcing, advertising or promoting the Art, or the City, and not for any commercial use or commercial gain whatsoever.

18.6 Licensee may not retain any sponsors for the exhibition of the Artwork without NYC Parks' prior written approval.

18.7 Smoking of any tobacco products, use of electronic cigarettes are strictly prohibited at the Licensed Premises. The display, placement or promotion of any tobacco products, electronic cigarettes and alcoholic beverages shall not be permitted at the Licensed Premises. In connection with the Licensed Premises, the Licensee shall not accept sponsorships of any kind on behalf of any kind of tobacco products and electronic cigarettes.

18.8 Any type of promotion which is false or misleading, which promotes unlawful or illegal goods, services or activities, or which is otherwise unlawful or obscene as determined by Parks, including but not limited to advertising that constitutes the public display of offensive sexual material in violation of Penal Law Section 245.11, shall also be prohibited. Upon notice from NYC Parks, Licensee shall immediately remove any such prohibited material displayed or placed.

18.9 Licensee shall adhere to and enforce these policies in this Section 18.

19. DOCUMENTATION

Licensee shall submit to NYC Parks two high-quality digital images of the artwork in situ before the end of the Term of the exhibition.

20. INVESTIGATIONS

20.1 The parties to this Agreement shall cooperate fully and faithfully with any investigation, audit or inquiry conducted by a State of New York ("State") or City governmental agency or authority that is empowered directly or by designation to compel the attendance and to examine witnesses under oath or conducted by the Inspector General of a governmental agency that is a party in interest to the transaction, submitted bid, submitted proposal, contract, lease, permit, or license that is the subject of the investigation, audit or inquiry.

20.2 (a) Any person who has been advised that his or her statement and any information from such statement will not be used against him or her in any subsequent criminal proceeding refuses to testify before a grand jury or other governmental agency or authority



empowered directly or by designation to compel the attendance of witnesses and to examine witnesses under oath concerning the award of or performance under any transaction, agreement, lease, permit, contract or license entered into with City, State or any political subdivision or public authority thereof, or the Port Authority of New York and New Jersey, or any local development corporation within City, or any public benefit corporation organized under the laws of the State of New York; or

(b) If any person refuses to testify for a reason other than the assertion of his or her privilege against self incrimination in an investigation, audit or inquiry conducted by a City or State governmental agency or authority empowered directly or by designation to compel the attendance of witnesses and to take testimony under oath, or by the Inspector General of the governmental agency that is a party in interest and is seeking testimony concerning the award of or performance under any transaction, agreement, lease, permit, contract or license entered into with City, State or any political subdivision thereof or any local development corporation within the City.

20.3 (a) The Commissioner or agency head whose agency is a party in interest to the transaction, submitted bid, submitted proposal, contract, lease, permit or license shall convene a hearing, upon not less than five days written notice to the parties involved to determine if any penalties should attach for the failure of a person to testify.

(b) If any non-governmental party to the hearing requests an adjournment, the Commissioner or agency head who convened the hearing may, upon granting the adjournment, suspend any contract, lease, permit or license pending the final determination pursuant to paragraph 20.5 below with City incurring any penalty or damage for delay or otherwise.

20.4 The penalties, which may attach after by the Commissioner or agency head's final determination may include, but not exceed:

(a) The disqualification for a period not to exceed five years from the date of an adverse determination for any person or entity of which such person was a member at the time the testimony was sought from submitting bids for, transacting business with or entering into or obtaining any contract, lease, permit or license with or from City; and/or

(b) The cancellation or termination of any and all such existing City contracts, leases, permits or licenses that the refusal to testify concerns and that have not been assigned as permitted under this Agreement, nor the proceeds of which pledged, to an unaffiliated and unrelated



institutional lender for fair value prior to the issuance of the notice scheduling the hearing, without the City incurring any penalty or damages on account of such cancellation or termination; monies lawfully due for goods delivered, work done, rentals, or fees accrued prior to the cancellation or termination shall be paid by City.

20.5 The Commissioner or agency head shall consider and address in reaching his or her determination and in assessing an appropriate penalty the factors in sub paragraphs (a) and (b) below. He or she may also consider, if relevant and appropriate, the criteria established in sub paragraphs (c) and (d) below in addition to any other information, which may be relevant and appropriate:

(a) The party's good faith endeavors or lack thereof to cooperate fully and faithfully with any governmental investigation or audit including, but not limited to, the discipline, discharge or disassociation of any person failing to testify, the production of accurate and complete books and records and the forthcoming testimony of all other members, agents, assignees or fiduciaries whose testimony is sought.

(b) The relationship of the person who refused to testify to any entity that is a party to the hearing, including, but not limited to, whether the person whose testimony is sought has an ownership interest in the entity and/or the degree of authority and responsibility the person has within the entity.

(c) The nexus of the testimony sought to subject entity and its contracts, leases, permits or licenses with City.

(d) The effect a penalty may have on an unaffiliated and unrelated party or entity that has a significant interest in an entity subject to penalties under Section 19.4 above, provided that the party or entity has given actual notice to the Commissioner or agency head upon the acquisition of the interest, or at the hearing called for in Section 19.3 (a) above gives notice and proves that such interest was previously acquired. Under either circumstance, the party or entity must present evidence at the hearing demonstrating the potential adverse impact a penalty will have on such person or entity.

20.6 (a) The term "license" or "permit" as used herein shall be defined as a license, permit, franchise or concession not granted as a matter of right.

(b) The term "person" as used herein shall be defined as a natural person doing



business alone or associated with another person or entity as a partner, director, officer, principal or employee.

(c) The term “entity” as used herein shall be defined as any firm, partnership, corporation, association or person that receives monies, benefits, licenses, leases or permits from or through City or otherwise transacts business with the City.

(d) The term “member” as used herein shall be defined as any person associated with another person or entity as a partner, director, officer, principal or employee.

20.7 In addition to and notwithstanding any other provision of this Agreement the Commissioner or agency head may in his or her sole discretion, terminate this Agreement upon not less than three (3) days written notice in the event the Licensee fails to promptly report in writing to the New York City Commissioner of Investigation about any solicitation of money, goods, requests for future employment or other benefit or thing of value, by or on behalf of any employee of the City or other person, firm, corporation or entity for any purpose which may be related to the procurement or obtaining of this Agreement by the Licensee, or affecting the performance of this Agreement.

21. MODIFICATION

This Agreement may be modified or amended at Licensee or NYC Parks’ request by written agreement duly executed by both parties.

22. APPROVALS/COMPLIANCE

The Licensee is responsible for obtaining all necessary approvals, permits, and other authorizations required by any existing federal, State, or City laws, rules, regulations, and orders applicable to any aspect of the operation of the Installation. The Licensee shall be responsible for payment of any and all fees or royalties.

23. NOTICES

All notices between the parties shall be in writing sent by certified mail, return receipt requested, or personally delivered to Parks c/o **Elizabeth Masella, Arts & Antiquities Division, New York City Department of Parks & Recreation, The Arsenal, 830 Fifth Avenue, 2nd Floor; New York, NY 10065, or at Elizabeth.Masella@parks.nyc.gov, (212) 360-1329**, unless otherwise specified, with a copy sent to NYC Parks’ General Counsel at the same address, and if to Licensee,

Attn: _____ with a copy sent to the Licensee’s General Counsel at the same



address. Any change of address shall be designated by written notice to the other party.

24. UNUSUAL CONDITIONS

Licensee shall promptly notify **NYC Parks' Central Communications Division at (646) 613-1200, and Elizabeth Masella, Art & Antiquities by telephone or email of any unusual conditions that may develop related to the Artwork** during the Term of this Agreement such as, but not limited to, fire, flood, casualty or substantial damage of any nature.

25. MICELLANEOUS

25.1 This Agreement constitutes the whole of the agreement between the parties hereto, and no other representation made heretofore shall be binding upon the parties hereto. No modification to this Agreement shall be valid unless in writing, signed by the parties hereto. Waiver of any breach or default of any provision hereof shall not be deemed a waiver of any subsequent breach of the same or other provision. This Agreement shall be deemed to be executed in the City of New York, State of New York, regardless of the domicile of the Licensee and shall be governed by and construed in accordance with the laws of the State of New York.

25.2 Any and all claims asserted by or against the City arising under this License or related thereto shall be heard and determined either in the Courts of the United States located in New York City ("Federal Courts") or in the courts of the State of New York ("New York State Courts") located in the City and County of New York. To effect this Agreement and intent, Licensee agrees:

(a) If the City initiates any action against the Licensee in Federal Court or in New York State Court, service of process may be made on the Licensee either in person, wherever such Licensee may be found, or by registered mail addressed to the Licensee at its address set forth in this License, or to such other address as the Licensee may provide to the City in writing; and

(b) With respect to any action between the City and the Licensee in New York State Court, the Licensee hereby expressly waives and relinquishes any rights it might otherwise have (i) to move to dismiss on grounds of forum non conveniens, (ii) to remove to Federal Court; and (iii) to move for a change of venue to a New York State Court outside New York County.

25.3 With respect to any action between the City and the Licensee in Federal Court located in New York City, the Licensee expressly waives and relinquishes any right he might otherwise have to move to transfer the action to a United States Court outside New York City.

25.4 If the Licensee commences any action against the City in a court located other than in



the City and State of New York, upon request of the City, the Licensee shall either consent to a transfer of the action to a court of competent jurisdiction located in the City and State of New York or, if the court where the action is initially brought will not or cannot transfer the action, the Licensee shall consent to dismiss such action without prejudice and may thereafter reinstitute the action in a court of competent jurisdiction in New York City.

26. SEVERABILITY

If any provision(s) of this Agreement is held unenforceable for any reason, each and all other provision(s) shall nevertheless remain in full force and effect.

27. JUDICIAL INTERPRETATION

Should any provision of this License require judicial interpretation, it is agreed that the court interpreting or considering same shall not apply the presumption that the terms hereof shall be more strictly construed against a party by reason of the rule of construction that a document should be construed more strictly against the party who itself or through its agent prepared the same, it being agreed that all parties hereto have participated in the preparation of this License and that legal counsel was consulted by each responsible party before the execution of this License.

28. HEADINGS

The Section Headings are inserted for convenience only and shall not be deemed to constitute part of this License Agreement or to affect the construction thereof. The use in this License Agreement of singular, plural, masculine, feminine and neuter pronouns shall include the others as the context may require.

29. COUNTERPARTS

This Agreement may be executed in counterparts, each of which shall be an original and all of which counterparts taken together shall constitute one and the same Agreement. PDF, scanned, or electronic signatures shall have the same legal force and effect as original wet ink signatures.

30. OBLIGATIONS AND LIABILITIES

Licensee's obligations and liabilities under this Agreement shall survive expiration or termination of this Agreement.



[NO FURTHER TEXT ON THIS PAGE]

[SIGNATURE PAGE TO FOLLOW]

SAMPLE - NOT FOR USE



NYC Parks

THE PARTIES HAVE EXECUTED THIS AGREEMENT AS OF THE DATE IN THE INTRODUCTORY CLAUSE.

**NEW YORK CITY DEPARTMENT OF
PARKS & RECREATION**

BY: _____
Elizabeth Masella
Senior Public Art Coordinator

DATE: _____, 20____

ACCEPTED AND AGREED

PUBLIC ART FUND

BY: _____

PRINT: _____

TITLE: _____

DATE: _____, 20____

SAMPLE - NOT FOR USE



REGULATIONS FOR PRIVATE AND NON-EMERGENCY SERVICE AGENCY VEHICLES OPERATING ON PARK AREAS, PATHS AND CLOSED PARK ROADS

In many cases, contract, governmental or private vehicles are authorized to operate within park areas such as park paths, closed park roads and recreation spaces. No private or non-emergency service governmental agency vehicle may operate on these park areas without specific authorization from City of New York, Parks & Recreation.

Vehicles authorized to operate in park spaces must ensure the safety of all park patrons and exercise the highest level of caution. The following guidelines must be adhered to:

Permits: All vehicles authorized to work in park spaces, including contractor vehicles, vehicles involved with special events, or other authorized uses, must display an official Parks Permit for the purpose, and noting the date and time of authorized use.

Operating within park areas:

1. When within a park, vehicles must operate on designated park drives or roads only. Vehicles may operate on park paths or in park use areas, such as playgrounds or lawns, only when essential to performing required work and with Parks specific approval. Private vehicles may never go through a park area simply for convenience.
2. Even when authorized to perform work on a park area, a private vehicle may never operate on a lawn, ballfield, outdoor pool, boardwalk or playground unless they are closed or another person is outside and in front guiding the vehicle. The guider must be dedicated and focused to this task. Guiders shall also be used whenever a vehicle is operating in a crowded or tight space within a park area.
3. **Traffic lights and signs must be obeyed at all times, including on closed park roads.**
4. Vehicle **flashers and hazard safety lights** must be in use whenever a vehicle is on a parks path or area. When appropriate, horns may also be used to alert pedestrians.
5. Always yield to pedestrians, skaters, bikers, joggers and park users within Parks property. They always have the right of way. **Always obey a 5 mph speed limit on pedestrian paths and a 15 mph speed limit on park drives.**
6. Be aware of the height, width and line of sight of the vehicle. Vehicles such as dump trucks may have high lines of sight that can impede the view of ground objects.
7. Plan the safest route possible. Use the park entrances closest to your work site and always follow the safety plan for the event or project.
8. Vehicles may not be stored on Parks property without written agency authorization.
9. Please be alert to and follow any posted signs or instructions from Parks' staff.

Violators of these rules subject their vehicles to possible towing, cancellation of permit and denial of future permits, and other related contract or event sanctions. To contact Parks, call 311.



EXHIBIT A
Artwork Exhibition Site
(§ 1)

SAMPLE - NOT FOR USE



EXHIBIT B
Renderings of the Artwork
(§ 2)

SAMPLE - NOT FOR USE



EXHIBIT C
Dimensions, Weight and the installation methods of Artwork
(§ 6.3)
(See Attached Documents)

SAMPLE - NOT FOR USE



EXHIBIT D
CITY OF NEW YORK CERTIFICATION BY INSURANCE BROKER OR AGENT

(§11.8)

The undersigned insurance broker or agent represents to the City of New York that the attached Certificate of Insurance is accurate in all material respects.

[Name of broker or agent (typewritten)]

[Address of broker or agent (typewritten)]

[Email address of broker or agent (typewritten)]

[Phone number/Fax number of broker or agent (typewritten)]

[Signature of authorized official, broker, or agent]

[Name & title of authorized official, broker or agent (typewritten)]

State of)

) ss.:

County of)

Sworn to before me this ____ day of _____ 20__

By: _____

NOTARY PUBLIC FOR THE STATE OF _____